



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Boards of Nursing and Medicine, Department of Health Professions
VAC Chapter Number:	18 VAC 90-30
Regulation Title:	Regulations Governing the Licensure of Nurse Practitioners
Action Title:	Implementation of the Nurse Licensure Compact
Date:	10-14-04

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

Proposed regulations will replace emergency regulations adopted by the Board of Nursing as required to comply with the second enactment clause of Chapter 49 of the 2004 Acts of the Assembly, which states “That the Board of Nursing shall promulgate regulations to implement the provisions of the Nurse Licensure Compact to be effective within 280 days of the enactment of this act.”

Regulations for initial licensure as a nurse practitioner and for renewal or reinstatement of that license require that a person hold a current Virginia license as a registered nurse. Amended regulations include a multistate licensure privilege as an acceptable alternative to the license as a registered nurse.

Basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Boards of Nursing and Medicine the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...
6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

The specific legal mandate to promulgate the regulation for implementation of the Nurse Licensure Compact is found in:

§ [54.1-3005](#). Specific powers and duties of Board.

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

14. *To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation; ...*

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

In 2003, the General Assembly enacted Chapter 249, which created the authorization for Virginia's membership in the Nurse Licensure Compact effective January 1, 2005. Sections 54.1-3030 through 54.1-3040 provide the legal basis for the Compact and specific statutory language for participation and administration. Amended rules will ensure that persons who are seeking license, renewal or reinstatement as nurse practitioners will be able to do so, whether they hold a license as a registered nurse or a multistate licensure privilege to practice in Virginia as a registered nurse.

The amendments are essential to conform the nurse practitioner regulations to the implementation of the Nurse Licensure Compact and ensure that there is no disruption in the ability of nurse practitioners to become licensed or to renew their licenses. Amended rules are necessary to protect the health and safety of the public by ensuring that all nurses who provide care to patients in Virginia, whether they hold a license or a multistate privilege, will be held to the same standards of conduct.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

Proposed regulations include a multistate licensure privilege as an acceptable alternative to the license as a registered nurse for initial licensure as a nurse practitioner and renewal or reinstatement of licensure in Virginia.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

Advantages or disadvantages to the public:

There are no disadvantages to the public; the proposed rules will ensure that nurses practicing in Virginia under a multistate licensure privilege are held to the same standards as those practicing with a Virginia license. Likewise, any limitation or monitoring required by a disciplinary order would be imposed equally. There may be some advantage to the public in that access to health care may be improved by the availability of nurses who reside in other states but will come into Virginia to work. However, the Compact also makes it easier for Virginia nurses to go to other Compact states to work, so the result may not create a net gain for health care in the state.

Advantages or disadvantages to the agency:

There are no specific advantages or disadvantages to the agency or the Commonwealth. Rules to implement the specific provisions of law will give guidance to the Board and its licensees on questions about declaration of a home state, limitations on practice and access to information.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going

a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of

expenditures	<p>regulation; b) The agency will incur some one-time costs (less than \$2,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled.</p> <p>There will be a significant effect on the revenue and expenditures of the Board relating to the Compact, but those effects were addressed in an action to increase fees in 2003 (Action 1307/ Stage 2453). No additional on-going expenditures are related to this action amending Chapter 30.</p>
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	The entities that are likely to be affected by these regulations would be LNP's who hold a RN license in Virginia or in another Compact state.
Agency's best estimate of the number of such entities that will be affected	There is no estimate of how many persons licensed in Virginia as nurse practitioners actually reside in a Compact state and will therefore have to declare that as their primary state of residence (home state). Those persons will continue to be licensed by Virginia as nurse practitioners, but instead of holding an RN license, they will be practicing under a multistate privilege.
Projected cost of the regulation for affected individuals, businesses, or other entities	There are no additional costs.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

There were no alternatives to the adoption of an amended regulation; it was specifically required in the second enactment clause of Chapter 49 of the 2004 Acts of the Assembly for the Board to promulgate regulations as required for implementation of the Compact.

Under the Compact, the Board will issue a multistate privilege if a nurse declares Virginia as his primary state of residence. If a nurse currently holds a Virginia license but resides in another Compact state, he will declare that state as his primary state and be issued a multistate privilege by that board. In either scenario, a person holding a current multistate licensure privilege to practice as a registered nurse in Virginia will be eligible for initial or continued licensure as a nurse practitioner. Therefore, regulations cannot continue to require a current license as a registered nurse without the alternative of a multistate licensure privilege.

If a nurse currently holds or applies for a Virginia license but resides in a non-Compact state, he will retain or be issued a Virginia license as a single-state license. In that scenario, the current regulation is applicable.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

An announcement of the Board’s intention to amend its regulations pursuant to recommendations of the periodic review was posted on the Virginia Regulatory Townhall, sent to the Registrar of Regulations, and sent to persons on the PPG mailing list for the Board. Public comment was accepted from July 26, 2004 to August 25, 2004. During the 30-day comment period, there was no public comment on the Notice of Intended Regulatory Action.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family and family stability.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
80	n/a	Establishes qualifications for initial licensure	Adds to the requirement that a person be currently licensed as a registered nurse in Virginia the alternative of holding a multistate licensure privilege as a registered nurse.
100	n/a	Establishes the requirements and schedule for renewal of a nurse practitioner license	Currently, the renewal of a nurse practitioner license is tied to the renewal schedule of one’s license as a registered nurse; the two are renewed at the same time. Since some nurse practitioners will not have a “license” to practice as a registered nurse in Virginia but will be practicing under a multistate licensure privilege, the amended regulation establishes the renewal schedule for a nurse practitioner who holds a privilege that follows the current pattern of biennial renewals in the birth month on odd or even years.
110	n/a	Establishes the	Adds to the requirement that a person be currently licensed as

		requirements for reinstatement of a nurse practitioner license	a registered nurse in Virginia the alternative of holding a multistate licensure privilege as a registered nurse.
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